

## REMARKS

Reconsideration of the application is respectfully requested.

## **I. Status of the Claims**

Claims 1 and 14 are amended without the introduction of new matter.

**Claim 19 is added without the introduction of new matter.**

Claims 1-19 are pending.

## II. Telephonic Interview

Applicants and Applicants' representative thank Examiner Leslie R. Deak for the telephonic interview on September 15, 2006. During the interview the outstanding rejections were briefly discussed. With respect to independent claims, the Examiner suggested the use of "configured to" language in the claims to explain that the light emission device and single light reception device work as a pair without other components to produce the desired result. Based on the telephonic interview, independent claims 1 and 14 are amended, and new independent claim 19 is added, by the present response.

### III. Rejections Under 35 U.S.C. § 102/103

Claims 1-4, 14, 16 and 17 were rejected under 35 U.S.C. §102(b) as anticipated by Maynard (U.S. Patent No. 5,385,539). Further, claim 5 was rejected under 35 U.S.C. §103(a) as unpatentable over Maynard in view of Hahn et al. (U.S. Patent No. 5,838,429, herein “Hahn”). Claims 6-11 were rejected under 35 U.S.C. §103(a) as unpatentable over Maynard in view of

Independent claim 1 is directed to a hematocrit sensor that includes a sensor, and amended to clarify subject matter recited. Specifically, amended claim 1 recites that the sensor includes, among other features, “a light emission device and a single light reception device provided with said housing such that both said light emission device and said single light reception device ***are in optical connection with each other*** and face said blood circuit through either said slit or said plurality of pores, respectively” (emphasis added). Support for such recitation is found in, for example, the Specification at page 18, line 8 through page 19, line 12, and Figs. 5 and 6.

The Examiner asserts that Maynard discloses that each light reception device “comprises a ‘single’ light reception device.” However, as argued in the previous Response, Maynard describes a hematocrit measurement sensor that requires two light detecting devices both to be in optical connection with a light emitting device.

More specifically, Maynard describes at column 3, lines 39-51 as follows.

The presently preferred embodiment is a hematocrit measurement sensor comprising a light emitting device for emitting light into a blood sample and *two light detecting devices* for detecting the light emitted into the blood sample. The light emitting and light detecting devices are arranged in a predetermined geometric pattern such that *light traveling*



With respect to the cited references under 35 U.S.C. §103(a), none of the cited references teach or suggest the above-discussed features recited in amended claim 1.

With respect to Heinemann, the Examiner states that the device in Heinemann “may comprise a single light source and detector (see column 2, lines 20-23, 37-40).” *See*, the outstanding Office Action, page 6, lines 1 and 2. In this regard, Heinemann describes at column 4, lines 34-36 that “the apertures 21 and 23 are suitably optically isolated from each other as by an optical wall 25.” In contrast, in the present invention recited in amended claim 1, the light emission device and the single light reception device are provided in one housing without any optical wall between the light emission and reception devices. As a result, the present invention recited in amended claim 1 allows the housing to be reduced in size. Thus, amended claim 1 and claims dependent therefrom are patentably distinguishable over Heinemann.

Therefore, even if the teachings of the cited references including Maynard are combined, the combined teachings do not render obvious the present invention recited in amended claim 1 and claims dependent therefrom.


Amended independent claim 14 includes features substantially similar to amended claim 1 to the extent discussed above. Therefore, amended claim 14 and claims dependent therefrom are also patentably distinguishable at least for the above reasons advanced for amended claim 1.

Accordingly, Applicants respectfully request the withdrawal of the rejections of claims 1-18 based on the cited references.

## CONCLUSION

The Examiner is respectfully requested to contact the undersigned at the telephone number indicated below once he has reviewed the proposed amendment if the Examiner believes any issue can be resolved through either a Supplemental Response or an Examiner's Amendment.

Respectfully submitted,

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